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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,132	06/29/2005	Kazuya Iwahashi	01831P00210US	4388
32116 7590 07/18/2011 WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661				
EXAMINER WEAVER, SUE A				
ART UNIT		PAPER NUMBER		
3781				
MAIL DATE		DELIVERY MODE		
07/18/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/541,132

**Applicant(s)**

IWAHASHI ET AL.

**Examiner**

SUE WEAVER

**Art Unit**

3781

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2011.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-24 is/are pending in the application.  
4a) Of the above claim(s) 8-11 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 5-7 and 12-24 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/9/11 has been entered.
2. Claims 8-11 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/2/09.
3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
4. The amendment filed 5/9/11 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The amendment bridging pages 14 and 15 where in applicants add "As seen in Fig. 5, the front and rear rigid wall portions 5 have substantially uniform thickness between left and right wall portions 6." Figure 6 is a sectional view taking only at the middle portion of the front and rear wall portions and does not reflect the upper or lower portion thickness of the front and rear walls to denote uniform thickness. Moreover Figure 6 does not reflect the

difference in thickness between front and rear wall portion as and sidewall portions and therefore cannot be considered to reflect any particular thickness at all. Applicant is required to cancel the new matter in the reply to this Office Action.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. A review of the original description, claims and drawings does not find support for the front and rear wall portions having substantially uniform thickness between left and right wall portions as claimed in claim 21. It is noted that applicant has failed to properly identify where there is support for the new limitations claimed.

7. Claims 5-7 and 12-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claims 5 and 22 each recites the limitation "the front and rear walls" in lines 30 and 31. There is insufficient antecedent basis for this limitation in the claim.

9. In claims 23 and 24 it isn't clear which of the upper or lower connection portions applicants consider "the connection portion" to be. Moreover "an average wall thickness

of the front and rear wall portions” in claim 24 appears to be a double inclusion of that set forth in claim 22.

10. Claims 5-7 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiraishi et al 2002/0130139 in view of Groom et al 5,373,967 and Spahni et al 5,150,300, all of record.

Shiraishi et al is considered to teach a laminated bottle with a bag and openings in the neck covered by the bag as claimed. Shiraishi et al further teach an oval shaped bottle. Moreover Spahni et al teach an oval bottle with a major to minor diameter relationship to form flat front and rear walls for greater expulsion of the contents. To have formed the oval bottle of Shiraishi et al with such diameter relationship as taught by Spahni et al would have been obvious. Shiraishi et al further suggest that the vent opening might be in the body or the bottom of the bottle and where a check valve isn't used, that the hole would be covered by the finger. To have formed the oval shaped container with the opening in the substantially flat front or rear wall in a recess in the manner of Groom et al at 132 would have been obvious. The molding of an oval shape container with thicker front and rear walls and thinner end walls is merely consequence of a well known molding method from a circular preform where the stretch stops with contact along the front and rear wall or minor diameter and continues in the direction of the major diameter. The connection portions lacking any structure amounts to no more than the point where the front and rear walls meet the shoulder and bottom as shown in Groom et al.

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 5 above, and further in view of Turner 3,662,048, of record.

To have molded the container such that the major diameter wall thinness is less than the minor diameter wall thickness would have been obvious in view of Turner as shown in the table.

12. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 5 above, and further in view of Szczepanski 4,020,978, of record.

To have formed the opening without any type of check valve to be covered by a thumb and paced it in the center of the wall in the manner of Szczepanski as shown in Figure 5 would have been obvious.

13. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 5 above, and further in view of Weckman 4,387,816 of record.

To have recessed the front and rear walls by providing a hinge formation at the upper and lower connections to prevent stress cracking would have been obvious in view of Weckman at 54, 56, and 62 and 64.

14. Claims 17-20 insofar as they are understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 5 above, and further in view of Richter et al 5,344,045, of record.

15. To have provided additional air inlet openings in the outer wall of the body at the bottom or body would have been obvious in view of Richter et al at 108, 110 and 132.

Note the openings of Shiraishi et al at opposite sides of the neck covered by the bag 22.

16. Claims 23 and 24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

17. Applicant's arguments with respect to claim 1 5-7 and 12-21 have been considered but are moot in view of the new ground(s) of rejection. Claims 1-4 have been canceled.

18. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571)272-4548. The examiner can normally be reached on Tuesday-Friday (3:30-4).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor is Anthony Stashick\_. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sue A. Weaver/  
Primary Examiner, Art Unit 3781  
[sue.weaver@uspto.gov](mailto:sue.weaver@uspto.gov)